

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.W.P. No. 3432 of 2007

Date of Decision : 06.03.2007

Pawan Kumar

... Petitioner

Versus

State of Punjab and others.

.. Respondents

CORAM : HON'BLE MR. JUSTICE J.S. KHEHAR,
HON'BLE MR. JUSTICE S.D. ANAND.

Present : Mr. A.S. Jattana, Advocate,
for the petitioner.

J.S. Khehar, J. (Oral)

Through the instant writ petition, the petitioner has impugned the order dated 10.08.1994 (Annexure P-2) vide which the petitioner was discharged from service with immediate effect. Learned counsel for the petitioner states, that although the petitioner was a Special Police Officer and as such, merely a temporary employee, he could not have been discharged without following the rules of natural justice, namely, without informing him of the basis of his aforesaid discharge, and without affording him an opportunity to represent his claim. Additionally, learned counsel for the petitioner states, that persons, similarly situated as the petitioner who had suffered long terms of imprisonment were reinstated after their discharge at the hands of the criminal Courts. As against the aforesaid contention, it is the submission of the learned counsel for the petitioner, that

the petitioner was arrested on the intervening night of 09/10.08.1994 under Sections 41 (2) and 109 of the Code of Criminal Procedure. He also states, that the petitioner was released on bail on 10.08.1994 and as such, there was no justification for the authorities in not revoking the order dated 10.08.1994 (Annexure P-2) specially when the petitioner was eventually discharged by the Sub Divisional Magistrate, Barnala, on 15.09.1994 (Annexure P-3). From the perusal of above, it reveals that in sum and substance, the petitioner is seeking to impugn the order of his discharge from service dated 10.08.1994 when, as of now, more than 12 years have passed. The question to be considered is, whether the instant writ petition should be dismissed solely on account of the delay in approaching this Court.

To overcome the issue of delay, learned counsel for the petitioner states, that he approached this Court by filing at least four writ petitions in the interregnum, and further, he continuously approached the administrative authorities from time to time, and that the claim raised by the petitioner was eventually rejected by the Director General of Police, Punjab, on 04.05.2004 (Annexure P-9).

We are satisfied, that there is delay in approaching this Court even after the disposal of the claim at the hands of the Director General of Police, Punjab, even after the passing of the order dated 04.05.2004; and that the petitioner allowed 12 long years to pass by in the absence of the availability of a statutory remedy, and as such, the instant writ petition is liable to be dismissed for reasons of delay and laches, as one cannot lose sight of the fact that in sum and substance, the petitioner seeks to impugn, through the instant writ petition, the order dated 10.08.1994 by which he

was discharged from service.

In the totality of the facts and circumstances noticed herein above, we are satisfied, that the instant writ petition suffers from delay and laches. The same is, accordingly, dismissed for reasons of delay and laches.

(J.S. Khehar)
Judge

March 06, 2007
vkd

(S.D. Anand)
Judge